

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

EDWARD SIEDENSTRANG,

Plaintiff,

Case No. 1:05-CV-457

v

Hon. Hugh W. Brenneman, Jr.

CITY OF BUCHANAN, et al,

Defendants.

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**OPINION**

Pending before the court is Defendants' Motion to Dismiss Plaintiff's Complaint Pursuant to Fed.R.Civ.P. 37(b) (docket no. 47).<sup>1</sup> For the reasons set forth below, the motion to dismiss will be GRANTED.

Plaintiff has brought suit against the City of Buchanan, its police department and certain individuals, alleging causes of action arising out of his discharge from the police department. Having brought suit, however, plaintiff has failed to pursue it.

Initially, plaintiff failed to produce various records pursuant to a request to produce documents served on October 6, 2005. He also refused to produce certain documents pursuant to a subpoena duces tecum when his deposition was taken on December 19, 2005. These derelictions resulted in a hearing on March 22, 2006, on a motion to compel discovery filed by the defendants. As a result of that hearing, the court issued an order requiring plaintiff to comply with that order and

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<sup>1</sup>Defendants have also filed a motion for summary judgment with a comprehensive brief in support thereof. No response has been filed to this motion. However, for the reasons set forth in the court's Opinion above, it is unnecessary to address this motion at this time.

produce the required documents not later than April 24, 2006. Plaintiff has yet to comply with the court's order and to produce those documents.

This case was also scheduled for case evaluation on August 15, 2006. Plaintiff did not file the required case evaluation brief, pay fees to members of the case evaluation panel (despite an additional notice sent by the court), nor appear at the evaluation.

On June 23, 2006, defendants filed the present motion to dismiss plaintiff's complaint. Plaintiff has filed no brief in opposition.

On July 31, 2006, defendants filed a motion for summary judgment. Plaintiff filed no brief in response to this motion.

Both the motion to dismiss and the motion for summary judgment were scheduled for hearing on September 27, 2006. Plaintiff failed without explanation to appear for the hearing.

It is readily evident that plaintiff has failed to prosecute this action and comply with the Federal Rules of Civil Procedure and the orders of this court. He has failed to provide discovery and has failed to comply with the court's order that he do so. He has failed to attend the case evaluation and did not pay his fees or file a brief. He has filed no opposition to a motion for summary judgment, and did not appear at the hearing on that motion. Significantly, he filed no opposition to the pending motion to dismiss nor appear at the hearing.

No purpose would be served by burdening the defendants or the court with further proceedings in this matter. Plaintiff has had more than adequate notice that this case would be subject to dismissal if he failed to pursue it. *See, e.g.*, Defendants' Motion to Dismiss (docket no. 47), defendants' brief in support of their motion to dismiss (docket no. 48), defendants' supplemental brief in support of their motion to dismiss (docket no. 65), and the court's Notice of

Hearing on the motion to dismiss providing that if no opposition to the motion were filed, the motion could be disposed of without further notice to the parties (docket no. 55). Pursuant to Rule 41(b), Fed.R.Civ.Proc., the motion to dismiss (docket no. 47) will be GRANTED and the action dismissed for failure to prosecute and for failure to comply with the court rules and the orders of this court.

Dated: September 28, 2006

/s/ Hugh W. Brenneman, Jr.  
Hugh W. Brenneman, Jr.  
United States Magistrate Judge